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## Minutes of MAYOR AND COUNCIL Meeting

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Approved by Mayor and Council  
on May 3, 2005

Date of Meeting: June 28, 2004

The Mayor and Council of the City of Tucson met in regular session, in the Mayor and Council Chambers in City Hall, 255 West Alameda, Tucson Arizona, at 5:35 p.m. on Monday, June 28, 2004, all members having been notified of the time and place thereof.

### 1. ROLL CALL

The meeting was called to order by Mayor Walkup and upon roll call, those present and absent were:

Present:

José J. Ibarra	Council Member Ward 1
Carol W. West	Council Member Ward 2
Kathleen Dunbar	Council Member Ward 3
Steve Leal	Council Member Ward 5
Fred Ronstadt	Vice Mayor, Council Member Ward 6
Robert E. Walkup	Mayor

Absent/Excused:

Shirley C. Scott	Council Member Ward 4
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Staff Members Present:

James Keene	City Manager
Michael Rankin	City Attorney
Kathleen S. Detrick	City Clerk
Michael D. Letcher	Deputy City Manager

## **2. INVOCATION AND PLEDGE OF ALLEGIANCE**

The invocation was given by Pastor Trevor Hubbs, Welcome Baptist Church, after which, the pledge of allegiance was presented by the entire assembly.

## **3. MAYOR AND COUNCIL REPORT: SUMMARY OF CURRENT EVENTS**

Mayor Walkup announced City Manager's communication number 346, dated June 28, 2004, would be received into and made a part of the record. He also announced that this was the time scheduled to allow members of the Mayor and Council to report on current events and asked if there were any reports.

- a. Council Member Ibarra thanked the Neighborhood Subcommittee, Assistant City Manager Liz Miller, Pima County's Chairperson Sharon Bronson, and Supervisor Richard Elias, for their work leading to a positive resolution to the development of a final Master Plan for Columbus Park.

## **4. CITY MANAGER'S REPORT: SUMMARY OF CURRENT EVENTS**

Mayor Walkup announced City Manager's communication number 347, dated June 28, 2004, would be received into and made a part of the record. He asked for the City Manager's report.

James Keene, City Manager, provided a schedule of events celebrating the Fourth of July at the Tucson Convention Center, "Red, White & Tucson":

6:00 a.m. - Tour for Tucson's Children Bike Ride  
6:00 p.m. to 10:00 p.m. - Little Anthony's Classic Car Show  
4:00 p.m. - Let Freedom Sing Concert at Music Hall  
6:00 p.m. - Desert Cadillacs  
7:00 p.m. - Singing of the National Anthem and Mayor's Proclamation  
8:45 p.m. - Fire in the Sky Firework Show from "A" Mountain

## **5. LIQUOR LICENSE APPLICATIONS**

Mayor Walkup announced City Manager's communication number 333, dated June 28, 2004, would be received into and made a part of the record. He asked the City Clerk to read the Liquor License Agenda.

b. New License

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| 1. MARISCOS PLAYA MAZATLAN<br>4547 S. 6 <sup>th</sup> Avenue<br>Applicant: Julio C. Lamadrid Carranza<br>City 031-04, located in Ward 5<br>Series 12<br>Action must be taken by: July 17, 2004<br>Considered separately. | Staff Recommendation<br><br>Police: Denied<br>DSD: Denied<br>Revenue: Rev in process |
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Person Transfer(s)

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| 2. HOME PLATE<br>4880 E. 22 <sup>nd</sup> Street<br>Applicant: Steve J. Anselmo<br>City 028-04, located in Ward 5<br>Series 6<br>Action must be taken by: July 1, 2004                                    | Staff Recommendation<br><br>Police: In Compliance<br>DSD: In Compliance<br>Revenue: In Compliance |
| 3. SURLY WENCH PUB<br>424 N. 4 <sup>th</sup> Avenue<br>Applicant: Stephanie H. Johnston<br>City 032-04, located in Ward 6<br>Series 6<br>Action must be taken by: July 26, 2004<br>Considered separately. | Staff Recommendation<br><br>Police: In Compliance<br>DSD: Denied<br>Revenue: Review in process    |

Person/Location Transfer(s)

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| 4. CATALINA MARKET #2<br>2226 N. Country Club Road<br>Applicant: Jayantibhai D. Patel<br>City 029-04, located in Ward 6<br>Series 9<br>Action must be taken by: July 9, 2004<br>Considered separately.   | Staff Recommendation<br><br>Police: In Compliance<br>DSD: In Compliance<br>Revenue: In Compliance |
| 5. QUICK STOP<br>1002 W. Congress Street<br>Applicant: Dharmendra T. Patel<br>City 030-04, located in Ward 1<br>Series 9<br>Action must be taken by: July 18, 2004<br>Public Opinion: Protests Filed<br>Supports Filed<br>Considered separately. | Staff Recommendation<br><br>Police: In Compliance<br>DSD: In Compliance<br>Revenue: In Compliance |

Kathleen S. Detrick, City Clerk, said application 5b1 had staff recommendations from the Police Department and Development Services for denial and would be considered separately. Council Member West and Vice Mayor Ronstadt had requested that application 5b3 be considered separately. It previously had a recommendation from Development Services for denial but now had a recommendation for approval. Vice Mayor Ronstadt had requested that application 5b4 be considered separately. Also, application 5b5 had protests filed and would be considered separately.

It was moved by Vice Mayor Ronstadt, duly seconded, and carried by a voice vote of 6 to 0, (Council Member Scott absent/excused), that liquor license application 5b2 be forwarded to the Arizona State Liquor Board with a recommendation for approval.

## **5. LIQUOR LICENSE APPLICATIONS**

### **b. New License**

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| 1. | MARISCOS PLAYA MAZATLAN<br>4547 S. 6 <sup>th</sup> Avenue<br>Applicant: Julio C. Lamadrid Carranza<br>City 031-04, located in Ward 5<br>Series 12<br>Action must be taken by: July 17, 2004 | Staff Recommendation<br><br>Police: Denied<br>DSD: Denied<br>Revenue: Rev in process |
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Kathleen S. Detrick announced the first liquor license to be considered separately was 5b1, Mariscos Playa Mazatlan, 4547 S. Sixth Avenue. It had staff recommendation for denial by both the Police Department and Development Services. It is located in Ward Five.

Mayor Walkup called on Council Member Leal.

Council Member Leal asked if the applicant or representative was present. There was no one. Council Member Leal said there was a request to address the Council on this license and called on Lupe Rodriguez.

Lupe Rodriguez said she was president of the Fairgrounds Neighborhood Association where the application was located. She distributed to Mayor and Council some sheets that showed the saturation level of liquor licenses in the area. She said that this was not the first time she had come before the Council. They kept fighting the over-saturation of liquor licenses in the area. Right now there were quite a few between Irvington, which was their southern boundary, and Ajo Way, their northern boundary on Sixth Avenue. There had always been quite a few. They did not see that granting a series twelve license to the applicant would be a convenience or good for the community in their area. The back of the property went onto their neighborhood, which was Fifth Avenue. In the past, this address had egress problems and they used the site of a home on

Fifth Avenue to get out of that area. Because of the parking and location, they had to ask the Council to put up black and yellow barriers. The traffic right now had stopped, but as time went by they got vandalized and the problems began all over again.

In conclusion, Ms. Rodriguez said that the saturation, the parking area and the fact that Mr. Carranza did not fill out his application correctly, led the Fairgrounds Neighborhood Association to believe he was not a reliable, qualified and competent person to have a place of business, especially with a series twelve.

Council Member Leal asked if there was anyone else who wished to address the Council on this license. There was no one. Council Member Leal thanked Ms. Rodriguez for her thoughtful and complete overview. He said it was clear that there was a collection of problems and each one of the problems would be enough to say "no". He added that for mostly the issue of convenience, State law required that for a new license, the applicant needed to prove the creation of responding to inconvenience, such that the existence of a new facility would then create convenience.

Council Member Leal said he just realized that he forgot to call upon the Police Department, which had also been involved in the analysis. At that time, he called on Officer Jeannie Nagore, Tucson Police Department.

Officer Jeannie Nagore, Tucson Police Department, reported that the Tucson Police Department was recommending denial on Mr. Lamadrid's application for a new liquor license. She said that Mr. Lamadrid was applying for a series twelve, restaurant liquor license. The recommendation for denial was based on Mr. Lamadrid providing false information on his application. On June 15, 2004, Mr. Lamadrid said he had completed the application and questionnaire. Upon review of the questionnaire, she noted that Mr. Lamadrid had checked the "no" box for questions fifteen and sixteen, which pertained to previous arrests and conviction history of the applicant. Additionally, question twelve asked the applicant to list employment history for the past five years. Mr. Lamadrid did not document that he had worked at a local bar where he obtained the following listed convictions. Per A.R.S.4-202E, the criminal history background check revealed conflicting information. Mr. Lamadrid had been arrested and convicted on two separate occasions for liquor related violations. A.R.S.4-203A states that a spirituous liquor license shall be issued only after satisfactory showing of the capability, qualifications and reliability of the applicant. Based on the false information provided by the applicant, the Tucson Police Department was recommending denial for this application.

Council Member Leal asked if there was someone from Development Services that wished to address the Council on this issue.

Ernie Duarte, Development Services Director, said that the basis for Development Services recommending denial for this application request was the fact that there was no certificate of occupancy for the existing facility and the application itself faced some zoning compliance challenges regarding parking.

Council Member Leal said it was clear that they had the wrong guy, the wrong place, the wrong building and the wrong neighborhood. There were many reasons why the Council should say “no” to this applicant, mainly concentration and filling out the application wrong, which called into question his ability to be forthright and have a significant position of responsibility with a liquor license in the community.

It was moved by Council Member Leal, duly seconded, that in liquor license 5b1, Mariscos Playa Mazatlan, the Council forward a recommendation of denial to the State Liquor Board.

Mayor Walkup asked if there was further discussion. Hearing none, he asked for the vote.

The motion to forward a recommendation of denial of liquor license 5b1, Mariscos Playa Mazatlan to the State Liquor Board was carried by a voice vote of 6 to 0, (Council Member Scott absent/excused).

## **5. LIQUOR LICENSE APPLICATIONS**

### **b. New License**

3.	SURLY WENCH PUB 424 N. 4 <sup>th</sup> Avenue Applicant: Stephanie H. Johnston City 032-04, located in Ward 6 Series 6 Action must be taken by: July 26, 2004	Staff Recommendation  Police: In Compliance DSD: Denied Revenue: Review in process
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Kathleen S. Detrick announced the next liquor license to be considered separately was 5b3, the Surly Wench Pub, 424 N. 4<sup>th</sup> Avenue. It is located in Ward Six. Both Council Member West and Vice Mayor Ronstadt had requested that this item be pulled.

Mayor Walkup called on Vice Mayor Ronstadt.

Vice Mayor Ronstadt asked if the applicant or a representative was present.

Thomas Aguilera, of Law Offices of Thomas R. Aguilera, said he was there on behalf of the applicant, Stephanie H. Johnson. He said she was present, but he was there on her behalf.

Vice Mayor Ronstadt said he did not know if Ernie Duarte, Development Services Director, could speak to the applicant to see how it could be managed to get Development Services in compliance, but as he was leaving his office, it was still not in compliance with Development Services. The issue was that there was a saturation of licenses on Fourth Avenue, over forty licenses within a half a mile radius of this one.

Vice Mayor Ronstadt noted that this would be the last meeting until August and action had to be taken by July 26. Based on past discussions with the neighbors, he said he was going to move for a recommendation for denial of the license.

It was moved by Vice Mayor Ronstadt, and duly seconded, that in liquor license 5b3, Surly Wench Pub, the Council direct staff to forward a recommendation of denial to the State Liquor Board.

Mr. Aguilera asked if he could have a chance to speak. He said this was a person to person transfer. With all due respect to Vice Mayor Ronstadt, he wanted to know more about two issues that he raised. Under statutory and case law, he was not obliged to address the statutory and case law. He was obliged to address the personal qualification issue when dealing with a person to person transfer. He said he had been doing this for some time, and he had gone over this issue in the past with Council Members Leal and West. Certainly when there was a saturation issue, it was a location transfer or a brand new license, whether it was a series ten or there had already been a series ten, they had to meet that prong of the public convenience test.

Mr. Aguilera said he wanted to put it on the record that they were not prepared to meet that burden today, because that burden was a person to person qualification and the Tucson Police Department had investigated his client. The department itself also had not raised protests about her personal qualifications. As far as compliance, he said he did not know more than what he spoke with Mr. Balak about on Thursday. They had been working very closely with Patricia Gehlen and Mr. Balak at Development Services on this very issue. It was a series six and had been there for many years. As they now knew, it had been operating illegally as a bar for many years, according to Development Services. It was their position that it was out of compliance with zoning and should never have been a bar. He said they could agree to disagree with that, but they were working closely with Development Services to rectify and remedy their concerns. They had been on the phone daily with them on that very issue.

Vice Mayor Ronstadt said the issue was that they did not know why Development Services took their recommendation for denial away, but what he was telling them now was that they were not in compliance. He told Mr. Aguilera that the Council would not meet again until August and they had to take action now.

Mr. Aguilera replied that his position was that they were in compliance. They were in compliance with the Tucson Police Department, in compliance with Development Services, in compliance with Revenue and in compliance with the statutes. He said he was sorry if he misspoke. He said they talked at length about the zoning issue as far as Development Service saw it. There was a variance granted in 1992 that sort of addressed that issue.

Vice Mayor Ronstadt said the problem he had with that issue was that he did not have the time, given the fact that the Council had to act at this meeting, as this item had

to be disposed of on or before July 26. They would not be meeting again. He wished the applicant or the representative had come to talk with him. But the reality was that he was uncomfortable on an approval if the bar was operating illegally, out of compliance, and then minutes ago, apparently, everything was approved. He had a problem with that.

Mr. Aguilera said he just wanted to let Vice Mayor Ronstadt know that it was the term Bill Balak used “out of compliance”, he used it once, illegally. But he said it was a bar; it had been there as a series six; parking had been the issue. Was it grandfathered, was it non-conforming use, etc? The variance that was discovered recently by Mr. Balak and Development Services staff really helped bring to the fore exactly what they were concerned about. They also visited with Chris Leighton, in Park-Wise. He said Mr. Balak indicated that indeed at this point, they were not in a position where they needed to actually bother with Vice Mayor Ronstadt’s office, since they were okay. That was the way he understood it from Mr. Balak.

Mr. Aguilera said the Council knew him, he would call the office and e-mail them often. He said they had done this once before with the City, where they sent it on with the recommendation for approval, conditional upon the Council office, the applicant and the representative, along with City staff getting together to make sure it was what they wanted; or no recommendation. However, he felt the recommendation for denial seemed to fly in the face of all the hard work the City Council had done. As the protestor who they eloquently heard earlier stated the position about the two-prong test, they were all really familiar with that. In conclusion, he wanted to say that they were in compliance and requested that they recommend approval or recommend it conditionally.

Vice Mayor Ronstadt recognized Mike Rankin.

Mike Rankin, City Attorney, noted that with respect to the saturation issue, this was a person to person transfer, so they were really looking at the capability qualifications and reliability of the applicant. He did not know if Mr. Duarte wanted to speak on the Development Services compliance issue, but the saturation issue would not be at play.

Ernie Duarte, Development Services Director, said the basis for the original denial was the fact that the application as presented was for a bar. There were some challenges in meeting some of the parking requirements. It was his understanding that the applicant worked with his staff on Wednesday, Thursday and Friday of last week and the application had been revised back to a restaurant, which brought it back into compliance with the zoning code.

Vice Mayor Ronstadt asked if they were operating as a restaurant, why then a series six? Why couldn’t they use a series twelve? Vice Mayor Ronstadt said he had been through this before with the State. If they had a series six and the City said it was okay that they had a series six, then they would not have to operate as a restaurant, they could be a bar and still be in compliance.



Mr. Duarte asked that they continue this for a few minutes and clarify the actual application that was presented.

Vice Mayor Ronstadt said they went through this same thing with 8-Trax and Maloney's and he did not want to replicate that endeavor. At this point, he said he was still unwilling to do anything but a denial and withdrew his motion.

Ms. Detrick asked if he wanted to continue this for a few minutes.

Vice Mayor Ronstadt withdrew his motion and the item and it was the consensus of the Mayor and Council to continue this application at the end of the liquor licenses.

(CITY CLERK NOTE: Decision of this item was postponed until the end of the liquor license agenda, to give an opportunity for staff to report on it.)

Ms. Detrick announced that staff was ready to report.

Mayor Walkup recognized Vice Mayor Ronstadt.

Vice Mayor Ronstadt stated that he thought they would have some good dialogue.

Michael McCrory, Principal Assistant City Attorney, said that one of the issues raised with this liquor license application was that it was a permitted use in the zone. So, this application could go forward as a bar under the zoning that it had on the property. The license they had was for a bar license, so if approval was granted both permitted use would be a bar and liquor license would be a bar. At the present time, the property was limited by a lack of parking. It had previously obtained a variance to parking that allowed it to operate as a restaurant only. A restaurant had less parking than a bar. So, it had been the City's determination that they could not presently proceed with zoning compliance as a bar. In order to proceed with the application, the applicant agreed with the City that the application for the site plan submitted to the City would be limited to a restaurant use and would only be allowed to be a restaurant use for zoning purposes, as long as that was the zoning on the property. The applicant also said that he would seek on behalf of his clients a variance to the parking requirements.

Mr. McCrory stated that if the variance was granted and the parking issue was addressed, it would then be able to operate as a full bar and would no longer be restricted to a restaurant. The Mayor and Council actually had a two-fold issue, whether it would presently operate as a restaurant, which would place it in zoning compliance. Ultimately it was seeking to operate as a bar in this location, which would be permitted by the zoning and which would not occur unless it had the proper parking and variances.

Vice Mayor Ronstadt said they were all tainted by their experiences. In his experience on Fourth Avenue in the past they were told that there was an establishment that was going to be a banquet hall and it was granted an extension of a series six. It immediately turned into a nightclub. He said there was some deception involved in that

application; but the State said it was a series six and could operate as a bar. They did not do anything about it.

Vice Mayor Ronstadt said it was a similar situation here. They were talking about a series 6 license. They said they were going to operate as a restaurant, but there was nothing that really held them to that. They could send the Zoning Examiner out every night to make sure that they were operating as a restaurant, but that really was not an efficient use of taxpayer resources. The other issue he had was another restaurant in the same area that they granted a series twelve, which was a restaurant license, and they were currently operating as a bar. Now they had to go through the State to have that addressed and that would take about twelve months.

Vice Mayor Ronstadt said the fact was that they were asking for a series six, which was a bar license. They would be out of compliance if they operated as a bar. Now if they had a series twelve, it would be a different story, but this was a series six. Based on the fact that they were asking for a series six and they could not operate as a bar, he was going to recommend it for denial.

It was moved by Vice Mayor Ronstadt, and duly seconded, to direct staff to forward application 5b3, Surly Wench Pub, to the State Liquor Board with a recommendation for denial.

Mr. Aguilera asked if he could have a chance to address Vice Mayor Ronstadt's comments. He said they had a full kitchen. It was made into a social club, so they added a full range, a full grill and a huge walk in. He said this was slated to serve food; that was their goal. When they looked at the liquor license applications that went before them, (inaudible) and Guido's, both of them said 'bar' on them. They were approved by the Council with that application. They ended up finding out from Bill Balak that it just turned out to be an error on the City's part.

According to Mr. Aguilera, Mr. Balak told them that if they said bar on it, even though they lacked the parking, they were C-3, and even though they had a series 6, they did not have enough parking and they would have to seek more parking from the area. They therefore amended the application to say 'restaurant'. It was a restaurant. That was why in 1992 when Margaret Conan went ahead and changed it, she actually went from a higher intensive use to a lower intensive use. She lost her nonconforming use status over the zoning in 1992. So, they were seeking to run as a restaurant and they had talked to Trish and Bill Balak from Development Services already. Literally, they were going to start looking at the variance opportunities that would be available to them.

Mr. Aguilera said they worked closely with Development Services on this one. When they looked at this application to start with, it was a bar and it was running as a bar. It had a series six and it was in a C-3 zone. It looked as though they could run a bar. Come to find out, they were the only applicants within the last three applicants that sought a certificate of occupancy. His clients asked him what they should do next? Mr. Aguilera told them that they would get a certificate of occupancy. The others just never

bothered to get a certificate of occupancy. He told the Council that he did not operate that way. They were working hard with the City on this one. If the Council wanted to compare them to 8-Trax who did what they did, it was their understanding their license was gone. The State yanked that license. He told Vice Mayor Ronstadt that was apples and oranges and this was a different situation. He believed that this was a different situation. They wanted to work closely with Mike McCrory's office and they had already done that. Mr. McCrory reviewed the old variance with them. Mr. Aguilera said he had some questions about it and Mr. McCrory got back to Mr. Tellez the same day. He got a call from Bill Balak. Mr. Aguilera said it had been working the way it was supposed to work, and that was why he did not involve Vice Mayor Ronstadt's office, because he thought it was going pretty well.

Mr. Aguilera said they were going to seek a variance. They could run as a restaurant. They had a full kitchen. They had menus. They could do it. He understood the Council's position with a series twelve running like a series six and that was no good. He said Council Member West knew, as they saw one at Wrightstown and Pantano one time. It was a series twelve running like a series six, and Council Member West told him that he could not put a series six license in a place where it did not have the zoning. That was why he thought the series six was good, because the Council said "let's put a series six on Fourth Avenue".

Mayor Walkup asked Vice Mayor Ronstadt if he wanted to change his motion.

Vice Mayor Ronstadt said "no". He did not want to be hard-hearted or anything like that, but said they have had a lot of problems with liquor licenses in that area specifically. If the Council had more control over a liquor license and could do things with attached conditions, if they could say they would grant the application only if they operated as a restaurant, it would be fine. But they could not do that. The State stripped those off and would say "they had a series six, they could do whatever a series six allowed".

Mr. Aguilera argued that it was not Ms. Berens-Morrison's position at the State Liquor Board. She spoke clearly on that issue recently at a number of seminars.

Vice Mayor Ronstadt said he did not know what happened at seminars, but he knew what happened in front of a hearing officer.

Council Member Ibarra asked if Mr. Aguilera was telling the Council that they wanted to operate this as a restaurant, not a bar, then why would they not apply for a series twelve instead of a series six? He could not speak for Vice Mayor Ronstadt, but said he was sure that was a whole change. If they could change it from a series six to a series twelve, he felt they would have come out of this meeting in a better situation.

Mr. Aguilera responded that had he looked at this and said a series six was worth \$40,000 and a series twelve was non-transferable, a series twelve would take a location test and a personal qualifications test, from a pure business standpoint they would want to put a bigger asset into the company. That certainly was a series \six. It would be

transferable. He could sell it to the world somewhere else. He could not do that with a series twelve. He said it was a business decision. When you looked at a C-3 zone, you looked at bars that had been operating there as bars; you saw that you had the proper zoning and you called and you checked and they said “yes, you did and you’ve got a series six”. Mr. Aguilera said he knew this Council and as Council Member West would tell them, she did not want to see a series six where it did not fit. He said he had to believe that if the Council said that a series six was good at 424 N. Fourth Avenue, then it was good. He said he was therefore wrong; he was dead wrong.

Council Member Ibarra said the only reason he brought it up was because with a series six, it looked like he was going to get a denial and he would have no assets. Council Member Ibarra said he knew Vice Mayor Ronstadt and that Vice Mayor Ronstadt would join him up there. His whole thing was that at least with a series twelve, it seemed more consistent and it would seem like he would get it passed. Mr. Ibarra noted that Mr. Aguilera was saying they wanted a restaurant and that was what the emphasis was, but yet they were asking for a liquor license for a bar. Yet with a series twelve, that was a restaurant license and that was pretty consistent. They were opening up a restaurant so they would get a restaurant liquor license. Council Member Ibarra thought that would end the trouble. He was not the client, but if he was looking at a series twelve because he was opening up a restaurant, he would get a series twelve instead of a series six, which was a bar, which they said they were not doing. They could get an approval from the liquor license pretty easily, because everyone seemed like they were okay with the series twelve, but not the series six. They could save themselves a lot of time, anger, and money not having to have anyone represent them up there. He could just get a series twelve like that. But it seemed like they were fighting for a series six, trying to make a series six work like a series twelve, which he did not think was consistent. He would have to support Vice Mayor Ronstadt, not solely for the reason that they were telling the Council one thing, but yet asking for another type. They were telling them they were a restaurant, not a bar, but yet they wanted a bar liquor license. He said he would support them if they came back and said they wanted a series twelve, because it would seem more consistent, but not this way.

Mr. Aguilera said it was not their fault that a series six was already granted at that location. This Council analyzed the efficacy of granting a series six. He knew the Council and when it looked at a location and it said they thought a series Six fit there, he came to rely on that. Now he knew he could not.

Vice Mayor Ronstadt stated that they were living with sins of the past councils.

Mr. Aguilera said that was only two years ago.

Vice Mayor Ronstadt continued that over the last couple of years this Council had gotten more diligent on liquor licenses and actually understood now the differences between a series six, twelve, nine, and ten. They were important differences that in the past were neglected by this body. He said that was fair to say. The reality was if they wanted a restaurant, they should get a restaurant license. There were enough bars on

Fourth Avenue. He said the Council gets burned if they tried to play nice guy. If they wanted to open a restaurant, they should get a restaurant license.

Mr. Aguilera asked Vice Mayor Ronstadt if he would support a series twelve?

Vice Mayor Ronstadt replied that he would support a series twelve.

Mr. Aguilera asked even in the face of neighborhood protest?

Vice Mayor Ronstadt responded that in general, West University has been receptive to series twelve.

Mr. Aguilera said that his work there was done, at least for tonight. He said that if a fire were to break out, he would feel pretty safe though.

Mayor Walkup asked if there was further discussion. Hearing none, he asked for the vote.

The motion by Vice Mayor Ronstadt to direct staff to forward application 5b3, Surly Wench Pub, to the State Liquor Board with a recommendation for denial was carried by a voice vote of 6 to 0, (Council Member Scott absent/excused).

## **5. LIQUOR LICENSE APPLICATIONS**

### **b. New License**

4.	CATALINA MARKET #2 2226 N. Country Club Road Applicant: Jayantibhai D. Patel City 029-04, located in Ward 6 Series 9 Action must be taken by: July 9, 2004	Staff Recommendation  Police: In Compliance DSD: In Compliance Revenue: In Compliance
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Kathleen S. Detrick announced the next liquor license to be considered separately was 5b4, Catalina Market #2, 2226 N. Country Club Road. She announced that it did have staff recommendation for approval. It is located in Ward Six.

Mayor Walkup called on Vice Mayor Ronstadt.

Vice Mayor Ronstadt asked if the applicant or a representative was present. There was no one. Vice Mayor Ronstadt said the reason he pulled this item off the agenda was that he received some emails that afternoon from some neighbors that were concerned. Currently there was a series ten application at the location and this application was for a series nine. He said there were two issues. One was that they were selling beer and wine now. Frequently there were empty beer cans littered throughout the neighborhood. That was their first concern. The other was that it was currently a series

ten and they were concerned about bringing in a series nine, which would establish location, which a series ten would not. The last concern was that they were having problems with rentals in the area with carryout liquor sales, causing disturbances because of the alcohol in the area.

Vice Mayor Ronstadt said he advised the person that emailed him, Mr. Franz, that he would bring his concerns up at the meeting. Vice Mayor Ronstadt said that Mr. Franz felt that bringing in liquor, as opposed to just beer and wine, would create more problems in the neighborhood.

Harry Patal, representing his father the applicant, said he did not understand the problem.

Vice Mayor Ronstadt explained to him that the complaint was coming from people living near the current establishment. The complaints were about beer cans and bottles in the area, disturbances, etc.

Mr. Patal said they had a large garbage container and for the past five years they cleaned the parking lot area twice a day. They had done the same thing at the location at Columbus and Flower. He added that they did not sell beer and wine to minors, or cigarettes near the school.

Vice Mayor Ronstadt said he understood that they might clean their property, but the issue was the foot traffic, people buying beer and wine and leaving their trash in the neighborhood, not on his property.

Mr. Patal argued that they had no neighbors in the area, just the empty lot of the Pima Library.

Mayor Walkup recognized Council Member Ibarra.

Council Member Ibarra commented that Mr. Patal's establishment, Catalina Market #1, was on Flower and Columbus, which was right down the street from his parent's house. Council Member Ibarra said he had been there many times when he went to visit his parents and had to buy ice cream for all the kids, or when his mom sent him there to get a newspaper to read all the fine articles they wrote about him. One of the things that he did know was that Mr. Patal had a clean and safe environment, he kept the area clean and was very committed to the neighborhood. Council Member Ibarra said that Ward 3 was on one side of the neighborhood, where he happened to be in, and his parents lived across the street in Ward 2. Mr. Patal had always been a responsible gentleman and somebody that had a clean shop and a clean and safe environment. Council Member Ibarra just wanted to pass that on because Mr. Patal had always shown that capability.

Vice Mayor Ronstadt asked Council Member Ibarra if he wanted to make the motion.

It was moved by Council Member Ibarra to direct staff to forward application 5b4, Catalina Market #2, to the State Liquor Board with a recommendation for approval.

Motion died for lack of a second.

It was moved by Vice Mayor Ronstadt, and duly seconded, to direct staff to forward application 5b4, Catalina Market #2, to the State Liquor Board with a recommendation for denial.

Mayor Walkup asked if there was further discussion. Hearing none, he asked for the vote.

The motion to direct staff to forward application 5b4, Catalina Market #2, to the State Liquor Board with a recommendation for denial was carried by a voice vote of 5 to 1, (Council Member Ibarra dissenting, Council Member Scott absent/excused).

## **5. LIQUOR LICENSE APPLICATIONS**

### **b. New License**

<b>5. QUICK STOP</b>	<b>Staff Recommendation</b>
1002 W. Congress Street	
Applicant: Dharmendra T. Patel	Police: In Compliance
City 030-04, located in Ward 1	DSD: In Compliance
Series 9	Revenue: In Compliance
Action must be taken by: July 18, 2004	
Public Opinion: Protests Filed	
Supports Filed	

Kathleen S. Detrick announced the final liquor license to be considered separately was 5b5, the Quick Stop, 1002 W. Congress Street. She announced that they had received protests, as well as support letters. It was located in Ward One.

Mayor Walkup called on Council Member Ibarra.

Council Member Ibarra said he would ask that the applicant come forward and then he would call on Hector Morales.

Harry Patal, manager at Quick Stop, 1002 W. Congress, said he was there to represent the applicant, due to his limited ability to speak the English language. Mr. Patal said he was there to urge the Council to give a recommendation. He gave six reasons why the application should be approved. The people who supported the license outweighed the people who protested it. In the protests, the accusations were not supported by enough evidence to prove this was happening. If they got the series nine liquor license, they would be able to better serve their customers by providing all types of liquor in one place. That would be more convenient for them, plus it would promote more competition, resulting in fairer prices for the consumer.

Mr. Patal noted that there was one concern in one of the protests about Rio Nuevo and how his store would look in the area. He said he thought it would look better than the liquor store across the street. People could walk in; they could choose by sight. For the outsiders and the tourists that might come by, they would not know what Menlo Park Liquor carried in their store. It would make a very big difference to choose something by sight, rather than ordering it from a window. Property values were also raised by the neighborhood association. Mr. Patal said if they got the liquor license, it would increase business value and in turn increase property values. He added that they would not be affecting the surrounding area. They would not be building a new store. They would only be adding a type of liquor to the existing beer and wine. Therefore, he suggested that they be granted their recommendation.

Mr. Patal said that a while ago he met with Council Member Ibarra and Mr. Jaja (sp) about the issue. He got the assumption from the meeting that their attempt was to get him to join the association, and only then would the association think about granting the support for his license or not. He said he had a witness that heard the same thing and he would speak soon. It was his belief that the City should decide that and not the association. He said they were only getting the license to be more competitive and hoped the City would understand the situation and grant him the license. He said that in order for them to be in business, they needed this license.

Council Member Ibarra called on Hector Morales.

Hector Morales said he received a letter from the Mayor's Office addressed to Hector Martinez and said he hoped that they would correct their mailing list. Mr. Morales said he resides in the City of Tucson. He was representing his wife, Elsa, and himself. He said he resided on private residential property owned by himself and his wife. The property was located at the entrance to Barrio Menlo Park, an early twentieth century heirloom community, immediately west of the Rio Nuevo western boundary.

Mr. Morales said that Quick Stop started out many years ago as a convenience store serving the surrounding neighborhoods with the sale of convenient food items. It had become simply a "liquor store". He said that the present and past operators had made their profits selling alcoholic beverages, beer and wine, to a few residents and many more non-residents. Its location on the northwest corner of the intersection of Grande Avenue and West Congress Street was convenient for motorists headed south on Mission Road or north on Silverbell Road, or west up Sentinel Peak or "A" Mountain. It was also convenient to a growing number of transients who were on foot.

By observation, Mr. Morales said it was obvious that a disturbing number of motorists and pedestrians were inebriated when they entered the store to purchase more alcohol. His home was located north of the store property with an alley between them, starting at Grande Avenue and running west. Many of the liquor store's customers would immediately head for the alley to drink either alone or in a party mode. Most returned to



the store to buy more alcohol, even though they were already drunk. Some passed out in the alley where they might be in danger of being run over by a vehicle.

Mr. Morales said he has called the Tucson Police Department on many occasions to remove alcoholics who had passed out. The alley was littered with bottles and cans, which he often picked up. On one cleanup occasion, he counted over sixty bottles and cans that he picked up on his wheelbarrow. He had never seen the operator of the store clean up the alley.

Mr. Morales added that at this same intersection, there was another liquor store located on the southwest corner. It was primarily a drive through, with many vehicles lined up going through the sales window. It appeared to him that Quick Stop wanted to compete more successfully with the store across the street. Both stores had their drive-through ingress and egress at curb cuts, which were at the corner tangent points. The main exits were dangerously close to the corner, in violation of present-day traffic safety standards. In speaking with engineers with the Tucson Department of Transportation, he was told that these substandard curb cuts were "grandfathered in". He said he could not believe that safety had been grandfathered out. He said he had asked why the traffic signals at this heavily traveled intersection did not include left turn signals. The response from the experts at the Transportation Department was that "more cars would come". He did not feel this was a very professional answer. In the meantime, drivers got more and more impatient and in anger caused more accidents.

Mr. Morales said that during rush hour, the traffic backed up to Alameda Street at Council Member Ibarra's office and beyond. Cars attempting to leave Quick Stop would attempt to drive between backed up vehicles or drive down the sidewalk to the alley. He recalled one occasion last year when a driver attempted to drive a van from the Quick Stop parking lot across the street and he ran into the building to the east, right into that western mural that had been there for many years and towards a park. Fortunately, the owner of that building replaced that western mural, which was kind of a historic artwork. He was standing in his front yard when this accident happened and they rushed across the street to see if they could help the driver. The driver was frozen, either scared or inebriated; one or the other, they could not figure out which. She wouldn't speak, but she had gone from Quick Stop right into the wall. Finally, the paramedics came and helped her.

Mr. Morales said he also asked the Transportation Engineers for an account of the accidents at the Congress/Grande intersection, including those where alcohol was a factor. They told him that the department did not track accidents and even erroneously directed him to the Pima Association of Governments (PAG), knowing full well that PAG only did traffic counts. They did not do traffic accidents. He inquired of the Police Department, where he was told that this data was not readily available and that he would be notified when the data had been researched and assembled. To date, he has not been given the requested account. Again, he said he knew from his personal observation that the traffic accidents had steadily increased over the past four years, with more involving alcohol as a contributing factor.

In summary, Mr. Morales stated that this series nine liquor store license was not appropriate for this location. In fact, he said that all licenses should be revoked and a more compatible use found for this site. He could not comprehend how the Police Department and Development Services Department could say that the operation in question was in compliance, when in terms of traffic safety, it certainly was not in compliance. Also, in the number of incidents where they had to call the Police Department and also the State Liquor Control Department, they should not be considered in compliance. For those reasons, he said they opposed the issuance of the license.

Council Member Ibarra said he wanted to clarify something that the applicant talked about. When the applicant came to them early on, they felt it was going to be a controversial application. Therefore, together with the neighborhood association, they sat down and asked for a meeting between the applicant and the neighborhood association, Menlo Park. Council Member Ibarra said that the Menlo Park Neighborhood had really done a lot of great things, along with the Westside Neighborhood Coalition, to revitalize and rebuild their neighborhood. One of the biggest things they talked about, over and over again, was a true partnership. When they talked about a true partnership, they talked about a partnership with Rio Nuevo and City staff. They talked about partnership with the County and a lot of aspects that they were doing. They asked the applicant for a true partnership, to find a way to work with the neighborhood, so that both could work and live together. They talked about partnering up with each other so that they could be one neighborhood, businesses and residents. That was how a neighborhood thrived. They worked with small businesses, but they also worked with the residents.

Council Member Ibarra said they understood that was not how he wanted to do business. They asked that maybe if he came to some of the neighborhood association meetings and got to know some of the people in the neighborhood association that were trying to make their neighborhood better, then maybe then they would understand that he wanted to be a true partner in this. They asked him to invest the time to work with the neighborhood association to really get to know everybody, so that in the end it would really not have to be a controversial issue when it came to Mayor and Council. The neighborhood could then support him because they would know him as a person, they would know him as a small businessperson, and most importantly they would know him as a neighbor and everybody could feel confident. In the end, he did not choose to do that. He chose to come directly to the Mayor and Council to ask for the license.

Council Member Ibarra added that another point was that on a constant basis, he passed by this location on his way home. He received calls from his constituents and Mr. Morales about concerns mentioned. He received calls from people across the street, from Lillian Lopez-Grant reiterating Mr. Morales' concerns. Council Member Ibarra said he got to see this on a daily basis. He had to call Solid Waste Department to come and pick up all the bottles and trash in the alley. These were constant calls that he had to make, along with calls to the Tucson Police Department.

Council Member Ibarra said that for those reasons he would be asking that they send a recommendation for the Quick Stop at 1002 W. Congress for denial to the State Liquor Board. He did not believe that the applicant met the qualifications for a person/location transfer. Council Member Ibarra also asked that they send a strong denial, because this was something they tried to work with and got nowhere.

It was moved by Council Member Ibarra, and duly seconded, to direct staff to forward application 5b5, Quick Stop, to the State Liquor Board with a recommendation for denial.

Mayor Walkup asked if there was further discussion. Hearing none, he asked for the vote.

The motion was carried by a voice vote of 6 to 0, (Council Member Scott absent/excused).

Council Member Dunbar asked to make one final comment to be read into the record before it went before the State Liquor Board, because again, it was the capability qualifications and reliability. She said that if Mr. Patal could not address the Council to explain why he was capable and reliable, she certainly wondered how he was going to communicate with the neighborhood when issues come up. Therefore, she did not believe he was capable, qualified or reliable.

## **6. CONSENT AGENDA ITEMS A THROUGH MM**

Mayor Walkup announced that the reports and recommendations from the City Manager on the Consent Agenda Items would be received into and made a part of the record. He asked the City Clerk to read the Consent Agenda.

### **A. ASSURANCE AGREEMENT: (S03-023) VILLAS AT DOS HOMBRES II SUBDIVISION, LOTS 1 TO 12 AND COMMON AREAS “A” AND “B”**

1. Report from City Manager JUNE28-04-357 W2
2. Resolution 19869 relating to planning: authorizing the Mayor to execute an Assurance Agreement securing the completion of improvements required in connection with the approval in Case S03-023 of a final plat for the Villas at Dos Hombres II Subdivision, Lots 1 to 12 and Common Areas “A” and “B”; and declaring an emergency.

### **B. FINAL PLAT: (S03-023) VILLAS AT DOS HOMBRES II SUBDIVISION, LOTS 1 TO 12 AND COMMON AREAS “A” AND “B”**

1. Report from City Manager JUNE28-04-335 W2

2. The City Manager recommends that, after the approval of the assurance agreement, the Mayor and Council approve the final plat as presented. The applicant is advised that building/occupancy permits are subject to the availability of water/sewer capacity at the time of actual application.
- C. ASSURANCE AGREEMENT: (S04-035) SAM HUGHES PLACE AT THE CORNER 56 CONDOMINIUM UNITS AND COMMON ELEMENTS “A”, “B”, AND LIMITED COMMON ELEMENTS “C-1” TO “C-58”
1. Report from City Manager JUNE28-04-355 W6
  2. Resolution 19873 relating to planning: authorizing the Mayor to execute an Assurance Agreement securing the completion of improvements required in connection with the approval in Case S04-035 of a final plat for the Sam Hughes Place Subdivision at the corner 56 Condominium Units and Common Elements “A” and “B” and Limited Common Elements “C-1” – “C-58”; and declaring an emergency.
- D. FINAL PLAT: (S04-035) SAM HUGHES PLACE AT THE CORNER SUBDIVISION, 56 CONDOMINIUM UNITS AND COMMON ELEMENTS “A”, “B” AND LIMITED COMMON ELEMENTS “C-1” TO “C-58”
1. Report from City Manager JUNE28-04-336 W6
  2. The City Manager recommends that, after the approval of the assurance agreement, the Mayor and Council approve the final plat as presented. The applicant is advised that building/occupancy permits are subject to the availability of water/sewer capacity at the time of actual application.
- E. ASSURANCE AGREEMENT: (S02-034) HIGH SIERRA ESTATES SUBDIVISION, LOTS 1 TO 21 AND COMMON AREAS “A”, “B”, AND “C”
1. Report from City Manager JUNE28-04-356 W1
  2. Resolution 19870 relating to planning: authorizing the Mayor to execute an Assurance Agreement securing the completion of improvements required in connection with the approval in Case S02-034 of a final plat for the High Sierra Estates Subdivision, Lots 1 to 21 and Common Areas “A”, “B”, and “C”; and declaring an emergency.
- F. FINAL PLAT: (S02-034) HIGH SIERRA ESTATES SUBDIVISION, LOTS 1 TO 21 AND COMMON AREAS “A”, “B”, AND “C”
1. Report from City Manager JUNE28-04-337 W1

2. The City Manager recommends that, after the approval of the assurance agreement, the Mayor and Council approve the final plat as presented. The applicant is advised that building/occupancy permits are subject to the availability of water/sewer capacity at the time of actual application.
- G. ASSURANCE AGREEMENT: (S02-044) WALNUT PROPERTY SUBDIVISION, LOTS 1 TO 54 AND COMMON AREA “A”
1. Report from City Manager JUNE28-04-354 W2
  2. Resolution 19871 relating to planning: authorizing the Mayor to execute an Assurance Agreement securing the completion of improvements required in connection with the approval in Case S02-044 of a final plat for the Walnut Property Subdivision, Lots 1 to 54 and Common Area “A”; and declaring an emergency.
- H. FINAL PLAT: (S02-044) WALNUT PROPERTY SUBDIVISION, LOTS 1 TO 54 AND COMMON AREA “A”
1. Report from City Manager JUNE28-04-338 W2
  2. The City Manager recommends that, after the approval of the assurance agreement, the Mayor and Council approve the final plat as presented. The applicant is advised that building/occupancy permits are subject to the availability of water/sewer capacity at the time of actual application.
- I. ASSURANCE AGREEMENT: (S03-024) PANTANO’S EDGE SUBDIVISION, LOTS 1 TO 71 AND COMMON AREAS “A-1” TO “A-3” AND “B-1” TO “B-3”
1. Report from City Manager JUNE28-04-358 W4
  2. Resolution 19872 relating to planning: authorizing the Mayor to execute an Assurance Agreement securing the completion of improvements required in connection with the approval in Case S03-024 of a final plat for the Pantano’s Edge Subdivision, Lots 1 to 71 and Common Areas “A-1” – “A-3” and “B-1” – “B-3”; and declaring an emergency.
- J. FINAL PLAT: (S03-024) PANTANO’S EDGE SUBDIVISION, LOTS 1 TO 71 AND COMMON AREAS “A-1” TO “A-3” AND “B-1” TO “B-3”
1. Report from City Manager JUNE28-04-339 W4
  2. The City Manager recommends that, after the approval of the assurance agreement, the Mayor and Council approve the final plat as presented. The applicant is advised that building/occupancy permits are subject to the availability of water/sewer capacity at the time of actual application.

- K. FINANCIAL PARTICIPATION AGREEMENT: WITH THE SOUTHERN ARIZONA INSTITUTE OF ADVANCED TRAINING
1. Report from City Manager JUNE28-04-340 CITY-WIDE
  2. Resolution 19865 relating to Financial Participation Agreements; authorizing and approving the Financial Participation Agreements between the City of Tucson and the Southern Arizona Institute of Advanced Training for fiscal year 2005; and declaring an emergency.
- L. TUCSON CODE: (CHAPTER 22) AWARDING A PENSION BENEFIT INCREASE TO TUCSON SUPPLEMENTAL RETIREMENT SYSTEM RETIREES AND BENEFICIARIES OF RETIREES WHO RETIRED FROM THE CITY PRIOR TO JULY 1, 2001
1. Report from City Manager JUNE28-04-341 CITY-WIDE
  2. Ordinance 9990 relating to Pensions, Retirement and Group Insurance; implementing Article 3, Tucson Supplemental Retirement System Section 22-41 (A) increase in retirement allowance of retired members by providing a benefit increase; and declaring an emergency.
- M. TUCSON CODE: AMENDING (CHAPTER 7) RELATING TO THE REGULATION OF MASSAGE THERAPISTS AND MASSAGE ESTABLISHMENTS TO COMPLY WITH STATE LEGISLATION
1. Report from City Manager JUNE28-04-342 CITY WIDE
  2. Ordinance 9991 relating to business regulation; revising the provisions regulating massage therapists and establishments by repealing Article VII of Chapter 7 of the Tucson Code; adding new Article VII, Chapter 7, Massage Establishments; and declaring an emergency.
- N. FINANCE: WRITE-OFF OF UNCOLLECTED ACCOUNTS RECEIVABLE
1. Report from City Manager JUNE28-04-343 CITY-WIDE
  2. Resolution 19866 relating to finance; authorizing the write-off of certain uncollectible accounts, and declaring an emergency.

O. PROFESSIONAL SERVICES CONTRACT: EXTENSION OF CONTRACT WITH WASHINGTON, D.C. CONSULTANT BRACY TUCKER BROWN

1. Report from City Manager JUNE28-04-344 CITY-WIDE

This request for contract extension continues the same terms, conditions and funding levels approved by Mayor and Council for fiscal year 2004. Item O considered separately at the request of Council Member West.

P. PROFESSIONAL SERVICES: RENEWAL OF CONTRACT WITH SACKS TIERNEY LAW FIRM FOR REPRESENTATION ON WATER ISSUES

1. Report from City Manager JUNE28-04-345 CITY-WIDE & OUTSIDE CITY

2. Resolution 19867 relating to professional services; approving an agreement with Sacks Tierney P.A., Lawyers, for representation on water issues; and declaring an emergency.

Q. GRANT: ACCEPTANCE OF GRANT FUNDS FROM THE U.S. DEPARTMENT OF JUSTICE FOR THE 2004 WEED AND SEED PROGRAM

1. Report from City Manager JUNE28-04-349 W1

2. Resolution 19868 relating to law enforcement; approving and authorizing acceptance of a grant from the U.S. Department of Justice; for the Weed and Seed Neighborhood Program; and declaring an emergency.

R. REAL PROPERTY: VACATION AND SALE OF CHAUNCY STREET RIGHT OF WAY TO THE UNIVERSITY OF ARIZONA

1. Report from City Manager JUNE28-04-350 W3

2. Ordinance 9993 relating to real property; vacating and declaring a portion of Chauncy Street right-of-way between Vine Avenue and Cherry Avenue to be surplus property, and authorizing the sale thereof to the University of Arizona; and declaring an emergency.

- S. REAL PROPERTY: VACATION AND SALE OF SURPLUS PROPERTY ON WARREN AVENUE, MABEL STREET, DRACHMAN STREET AND THE ALLEY RIGHT OF WAY TO THE UNIVERSITY OF ARIZONA FOR MEDICAL RESEARCH FACILITIES
1. Report from City Manager JUNE28-04-352 W6
  2. Ordinance 9994 relating to real property; vacating and declaring certain portions of Warren Avenue, Mabel Street, Drachman Street and alley right-of-way in the vicinity of Cherry Avenue and Helen Street to be surplus property, and authorizing the sale thereof to the University of Arizona for medical research facilities; and declaring an emergency.
- T. ASSURANCE AGREEMENT: (S03-027) CATALINA VISTAS SUBDIVISION, LOTS 1 TO 85, AND COMMON AREAS “A”, “B”, AND “C”
1. Report from City Manager JUNE28-04-368 W2
  2. Resolution 19876 relating to planning: authorizing the Mayor to execute an Assurance Agreement securing the completion of improvements required in connection with the approval in Case S03-027 of a final plat for the Catalina Vistas Subdivision, Lots 1 to 85 and Common Areas “A” – “C”; and declaring an emergency.
- U. FINAL PLAT: (S03-027) CATALINA VISTAS SUBDIVISION, LOTS 1 TO 85, AND COMMON AREAS “A”, “B”, AND “C”
1. Report from City Manager JUNE28-04-351 W2
  2. The City Manager recommends that, after the approval of the assurance agreement, the Mayor and Council approve the final plat as presented. The applicant is advised that building/occupancy permits are subject to the availability of water/sewer capacity at the time of actual application.
- V. INTERGOVERNMENTAL AGREEMENT: WITH PIMA COUNTY FOR YOUTH DEVELOPMENT ACTIVITIES
1. Report from City Manager JUNE28-04-334 W1,3,5,6
  2. Resolution 19874 relating to Intergovernmental Agreements; authorizing and approving the execution of an Intergovernmental Agreement between the City of Tucson and Pima County for Youth Development Activities; and declaring an emergency.



W. REAL PROPERTY: VACATION, CONVEYANCE, AND EXCHANGE OF SURPLUS PROPERTIES WITH THE TUCSON UNIFIED SCHOOL DISTRICT FOR THE DEVELOPMENT OF ELDERLY HOUSING

1. Report from City Manager JUNE28-04-362 W5
2. Ordinance 9995 relating to real property; vacating and declaring certain portions of Martin Avenue and other City owned properties in the vicinity of Kino Parkway and Winsett Street to be surplus; authorizing the conveyance of said property to the Tucson Unified School District in exchange for a portion of Tucson Unified School District owned property adjacent to the Quincie Douglas Center/Silverlake Park Complex; vacating and declaring a portion of the Quincie Douglas Center/Silverlake Park Complex to be surplus, and authorizing the conveyance thereof to the Metropolitan Housing Commission and the Tucson Urban League pursuant to the HUD Section 202 Supportive Housing for the Elderly Program, and declaring an emergency.

Item W considered separately at the request of Council Member Leal.

X. REAL PROPERTY: VACATION AND SALE OF RIGHT OF WAY NEAR KINO BOULEVARD AND WINSETT STREET TO JOHN AND PEGGY SUE PIZZO

1. Report from City Manager JUNE28-04-364 W5
2. Ordinance 9996 relating to real property; vacating and declaring a portion of right-of-way near the intersection of Kino Boulevard and Winsett Street to be surplus property, and authorizing the sale thereof to John and Peggy Sue Pizzo; and declaring an emergency.

Y. INTERGOVERNMENTAL AGREEMENT: WITH THE UNIVERSITY OF ARIZONA TO EXTEND THE LOW 4 WATER CONSERVATION/EDUCATION PROGRAM

1. Report from City Manager JUNE28-04-366 CITY-WIDE & OUTSIDE CITY
2. Resolution 19875 relating to water; approving an Intergovernmental Agreement between the City of Tucson and the Regents of the University of Arizona to reduce water consumption in commercial and multi-family landscapes; and declaring an emergency.

Z. REAL PROPERTY: APPROVING LEASE AGREEMENTS WITH LP&G, INC., AND LEADING MEDICAL RESEARCH, LLC

1. Report from City Manager JUNE28-04-367 W6

2. Ordinance 9998 relating to real property; authorizing and approving the lease of portions of 400 North Toole Avenue to LP&G, Inc., an Arizona Corporation and Leading Medical Research, LLC; and declaring an emergency.

AA. AWARD APPLICATION: FOR THE LEAGUE OF AMERICAN BICYCLISTS – BICYCLE FRIENDLY COMMUNITY PLATINUM AWARD 2006

1. Report from City Manager JUNE28-04-369 CITY-WIDE

At the request of staff, this item has been continued to the meeting of August 2, 2004.

BB. OPTION AGREEMENT: WITH THE GENERAL SERVICES ADMINISTRATION FOR AN OFFICE BUILDING FOR THE UNITED STATES ATTORNEY'S OFFICE

1. Report from City Manager JUNE28-04-370 W1
2. Ordinance 10000 relating to real property; authorizing and approving the execution of an assignable option to the United States of America to purchase certain City owned real property in the vicinity of the northeast corner of Congress Street and Freeway, and declaring an emergency.

CC. LICENSE AGREEMENT: FOR ROOFTOP WEBCAM, LOCATED AT 1 SOUTH CHURCH AVENUE

1. Report from City Manager JUNE28-04-371 W6
2. Resolution 19877 relating to real property; authorizing and approving acceptance of a license agreement between HUB Properties Trust as Licensor and City of Tucson as Licensee for the installation of two web-based cameras atop the Unisource Tower and declaring an emergency.

DD. DEVELOPMENT AGREEMENT: APPROVAL OF DEAL POINTS FOR THE CITIZEN AUTO STAGE RELOCATION

1. Report from City Manager JUNE28-04-372 W1
2. Ordinance 10001 relating to real property; authorizing and approving the exchange of certain City owned real property consisting of Lots 9 and 10 in Alvernon Corners Industrial Center to Citizen Auto Stage in exchange for the Citizen Auto Stage owned property at 351 South Brickyard Lane; and declaring an emergency.

Item DD considered separately at the request of Council Member Dunbar.

- EE. TUCSON CODE: AMENDING (CHAPTER 22) RELATING TO CITY OF TUCSON EMPLOYEES – APPROVING SUPPLEMENTAL MILITARY LEAVE BENEFITS FOR CITY EMPLOYEES

There no longer is an Item EE. This subject has been incorporated into Regular Agenda Item 17.

- FF. APPROVAL OF MINUTES: DECEMBER 8, 2003; DECEMBER 15, 2003; JANUARY 5, 2004; FEBRUARY 9, 2004; MARCH 1, 2004

1. Report from City Manager JUNE28-04-363 CITY-WIDE

- GG. TUCSON CODE: AMENDING (CHAPTER 21) RELATING TO CHARGES FOR PARKS AND RECREATION FACILITIES AND PROGRAMS

1. Report from City Manager JUNE28-04-374 CITY-WIDE
2. Ordinance 10002 relating to parks and recreation; amending Chapter 21 of the Tucson Code as follows: amending fee formula for adult major sports by amending Section 21-9(1); amending recreational class fee formula by amending Section 21-13; increasing fees for recreational center use by amending Sections 21-14.1 and 21-14.2; increasing non-city resident rates by amending Section 21-15; increasing fees for use of certain parks facilities by amending Section 21-16(2)(1) and 21-16(3); and declaring an emergency.

Item GG was continued to the meeting of August 2, 2004.

- HH. PRE-ANNEXATION AND DEVELOPMENT AGREEMENT: WITH TRADECO INVESTMENTS, L.L.C.

1. Report from City Manager JUNE28-04-381 OUTSIDE CITY
2. Resolution 19879 relating to annexations; authorizing and approving the execution of a Pre-Annexation Development Agreement between the City of Tucson and Tradeco Investments, L.L.C.; and declaring an emergency.

Item HH considered separately at the request of Council Member Leal.

- II. PRE-ANNEXATION AND DEVELOPMENT AGREEMENT: WITH VISTA COMPANIES, L.L.C.

1. Report from City Manager JUNE28-04-382 OUTSIDE CITY
2. Resolution 19880 relating to annexations; authorizing and approving the execution of a Pre-Annexation Development Agreement between the City of Tucson and Vista Companies, L.L.C.; and declaring an emergency.

Item II considered separately at the request of Council Member Leal.

JJ. ASSURANCE AGREEMENT: (S04-052) SEARCY PLAZA OFFICES SUBDIVISION, LOTS 1 TO 5 AND COMMON AREAS “A” AND “B”

1. Report from City Manager JUNE28-04-380 W2
2. Resolution 19881 relating to planning: authorizing the Mayor to execute an Assurance Agreement securing the completion of improvements required in connection with the approval in Case S04-052 of a final plat for the Searcy Plaza Offices Subdivision, Lots 1 to 5 and Common Areas “A” and “B”; and declaring an emergency.

KK. FINAL PLAT: (S04-052) SEARCY PLAZA OFFICES SUBDIVISION, LOTS 1 TO 5 AND COMMON AREAS “A” AND “B”

1. Report from City Manager JUNE28-04-383 W2
2. The City Manager recommends that, after the approval of the assurance agreement, the Mayor and Council approve the final plat as presented. The applicant is advised that building/occupancy permits are subject to the availability of water/sewer capacity at the time of actual application.

LL. REAL PROPERTY: CONSERVATION EASEMENT WITH THE CENTER FOR DESERT ARCHAEOLOGY FOR VISTA DEL RIO PARK

1. Report from City Manager JUNE28-04-384 W2
2. Resolution 19878 relating to real property; authorizing and approving the execution of a conservation easement between the City of Tucson and the Center for Desert Archaeology for Vista del Rio Park; and declaring an emergency.

MM. PARKS AND RECREATION: ENDORSEMENT OF ALTERNATE CONCEPT PLAN FOR COLUMBUS PARK

1. Report from City Manager JUNE28-04-385 W1

The City Manager is in agreement with the Neighborhoods Subcommittee’s recommendation, that the Alternate Concept Plan be endorsed. A revised IGA between the City and the County for Columbus Park improvements will be brought to the Mayor and Council at the August 2<sup>nd</sup> meeting.

It was moved by Council Member Leal, duly seconded, that Consent Agenda Items A through MM, with the exceptions of Items O, W, AA, DD, EE, GG, HH, and II, be passed and adopted and the proper action taken.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar, and Leal,  
Vice Mayor Ronstadt and Mayor Walkup.

Nay: None

Absent/Excused: Council Member Scott

Consent agenda Items A through MM, with the exception of Items O, W, AA, DD, EE, GG, HH, and II were passed and adopted by a roll call vote of 6 to 0.

O. PROFESSIONAL SERVICES CONTRACT: EXTENSION OF CONTRACT  
WITH WASHINGTON, D.C. CONSULTANT BRACY TUCKER BROWN

1. Report from City Manager JUNE28-04-344 CITY-WIDE

This request for contract extension continues the same terms, conditions and funding levels approved by Mayor and Council for fiscal year 2004.

Kathleen S. Detrick, City Clerk, said the first item to be considered separately was Item O, which was removed at the request of Council Member West.

Council Member West thought that Bracy Tucker Brown had given the City of Tucson excellent representation in Washington. She saw no reason to change representation at this critical time when they were protecting Davis-Monthan Air Force Base, working with leadership on the TEA-3 Transportation Bill, and many other Federal initiatives.

It was moved by Council Member West, duly seconded, to extend the City's contract for federal representation for Bracy Tucker Brown to July 2005.

Vice Mayor Ronstadt found it interesting that the City started getting the great service once the announcement was made that a Request for Proposal (RFP) was being considered for a new service. He thought the City should send out a Request for Qualifications (RFQ) in the next three months and then three months after that they should send out an RFP.

A substitute motion was made by Vice Mayor Ronstadt, duly seconded, to approve the City Manager's recommendation with a six-month extension.

Upon roll call, the results were:

Aye: Council Member Dunbar and Vice Mayor Ronstadt

Nay: Council Members Ibarra, West, and Leal,  
Mayor Walkup

Absent/Excused: Council Member Scott

The substitute motion on Consent Agenda Item O failed by a roll call vote of 2 to 4.

Mayor Walkup asked for a roll call on the original motion.

Ms. Detrick asked Council Member West if there was a date in 2005 on the original motion.

Council Member West responded that it would be July 1, 2005.

On the original motion, upon roll call, the results were:

Aye: Council Members Ibarra, West, Leal, and Mayor Walkup

Nay: Council Member Dunbar and Vice Mayor Ronstadt

Absent/Excused: Council Member Scott

Consent Agenda Item O, extending the City's contract with Bracy Tucker Brown to July 1, 2005, was declared passed and adopted by a roll call vote of 4 to 2.

**W. REAL PROPERTY: VACATION, CONVEYANCE, AND EXCHANGE OF SURPLUS PROPERTIES WITH THE TUCSON UNIFIED SCHOOL DISTRICT FOR THE DEVELOPMENT OF ELDERLY HOUSING**

1. Report from City Manager JUNE28-04-362 W5
2. Ordinance 9995 relating to real property; vacating and declaring certain portions of Martin Avenue and other City owned properties in the vicinity of Kino Parkway and Winsett Street to be surplus; authorizing the conveyance of said property to the Tucson Unified School District in exchange for a portion of Tucson Unified School District owned property adjacent to the Quincie Douglas Center/Silverlake Park Complex; vacating and declaring a portion of the Quincie Douglas Center/Silverlake Park Complex to be surplus, and authorizing the conveyance thereof to the Metropolitan Housing Commission and the Tucson Urban League

pursuant to the HUD Section 202 Supportive Housing for the Elderly Program, and declaring an emergency.

Kathleen S. Detrick, City Clerk, said the next item to be considered separately was Item W, which was removed at the request of Council Member Leal.

Council Member Leal said they were made aware of a possible trade between Tucson Unified School District and the City of Tucson. A couple of years ago there had been a discussion of a trade involving some property on the east side of Kino and Campbell. The business quadrant south of Broadway from Campbell east, over the years, had lost many of its ways in and out and those businesses had become more landlocked. It was harder for their customers to find them and it took more time for their employees to get in and out. In a few days there would be a meeting at the Quincie Douglas Neighborhood Center with City staff and the business community to look at the properties in question. Council Member Leal said he wanted to continue this item until that meeting took place. He asked Emily Nottingham if she would like to comment.

Emily Nottingham, Community Services Director, said that the half of this item that dealt with the conveyance of acreage to the Tucson Urban League and Metropolitan Housing Corporation was part of a grant for an elderly housing development. That grant was due on July 27, 2004. Continuance of this item would not allow them to apply for the grant.

Council Member Leal said when they met he had suggested looking for an alternative way to secure the property. If she needed to tentatively tell Tucson Unified School District that the City was going to buy it, she should do that and not leave the other people in the position of losing access to their businesses.

Ernie Duarte, Development Services Director, said the trade with Tucson Unified School District involving the Army Corps of Engineers as well as Pima County was a subsequent item that the Council would see later this fall. This particular exchange did not involve the closure issues related on Campbell Avenue or the access issues. Those remain to be resolved.

Council Member Leal wanted to be clear on this and asked Ms. Nottingham about their meeting from two to three weeks prior. He said at that time they did not have exact information, just that there was a trade on some land the City had by Campbell. So, he asked if the land they wanted to trade for this housing was not on the east side of Campbell..

Mr. Duarte said that was correct. This particular land was at Kino and Winsett.

Council Member Leal said this property was on the west side of Campbell. He said he was okay then. They could have their meeting later that week to discuss the east side of Campbell.

It was moved by Council Member Leal, duly seconded, that Consent Agenda Item W be passed and adopted and the proper action taken.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar, and Leal;  
Vice Mayor Ronstadt and Mayor Walkup

Nay: None

Absent/Excused: Council Member Scott

Consent Agenda Item W was declared passed and adopted by a roll call vote of 6 to 0.

**DD. DEVELOPMENT AGREEMENT: APPROVAL OF DEAL POINTS FOR THE CITIZEN AUTO STAGE RELOCATION**

1. Report from City Manager JUNE28-04-372 W1
2. Ordinance 10001 relating to real property; authorizing and approving the exchange of certain City owned real property consisting of Lots 9 and 10 in Alvernon Corners Industrial Center to Citizen Auto Stage in exchange for the Citizen Auto Stage owned property at 351 South Brickyard Lane; and declaring an emergency.

Kathleen S. Detrick said the next item to be considered separately was Item DD, which had been removed at the request of Council Member Dunbar.

Council Member Dunbar asked what the existing Citizen Auto Stage facility was appraised for.

John Updike, Real Estate Administrator, said the existing facility on Brickyard Lane was appraised approximately four years ago at a price just less than one million.

Council Member Dunbar asked if it was six hundred thousand dollars.

Mr. Updike said he believed it was just over nine hundred thousand dollars.

Council Member Dunbar asked what the total cost to the City and Rio Nuevo for the new facility.

Mr. Updike said the total cost as outlined in the memorandum for an exchange for the current property to a new property would be 2.1 million dollars.

Council Member Dunbar asked if that was 2.1 million dollars or 2.9 million dollars.



Mr. Updike said 2.1 million dollars was what was currently in front of the Mayor and Council. The property to be exchanged was previously acquired by the City in 2002 for eight hundred twenty thousand dollars or two dollars and twenty-five cents per square-foot.

Council Member Dunbar said the work started approximately six months earlier and asked him to explain what happened and the process. It seemed to her the price had gone up significantly.

Mr. Updike said there was no question that the prices had gone up significantly, particularly in the past six months. The replacement facility building had a lot of steel, as well as an asphalt requirement, which was a petroleum product. As the Council knew, those prices had escalated in the past six months. They did a value engineer on the project during the year 2003, following an initial concept design that showed about a 2.3 million dollar price tag for the overall exchange. They brought that down to 2.1 million dollars and that included inflationary factors. That was the agreement before the Mayor and Council at this meeting.

Council Member Ibarra congratulated staff. He thought that Rio Nuevo on the west side was really never going to happen until Citizen's Auto Stage was out of there. Once it was gone, then the City was coming around the corner. He knew it was a little expensive and he agreed with Council Member Dunbar, but the City would now be able to start in terms of Rio Nuevo. The busses that clogged up and caused accidents at Mission Lane and Grande would be out of the neighborhood. Most importantly, the City would be able to look at the serious environmental and archeological aspects there were that Citizen's Auto Stage had been on top of all these years. He thought it was a good deal, a little expensive, but a good deal. He congratulated Mr. Keene and his staff for a great job and said he was glad they were coming to a conclusion on this.

It was moved by Council Member Ibarra, duly seconded, that Consent Agenda Item DD be passed and adopted and the proper action taken.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar, and Leal;  
Vice Mayor Ronstadt and Mayor Walkup.

Nay: None

Absent/Excused: Council Member Scott

Consent agenda Item DD was declared passed and adopted by a roll call vote of 6 to 0.

HH. PRE-ANNEXATION AND DEVELOPMENT AGREEMENT: WITH TRADECO INVESTMENTS, L.L.C.

1. Report from City Manager JUNE28-04-381 OUTSIDE CITY
2. Resolution 19879 relating to annexations; authorizing and approving the execution of a Pre-Annexation Development Agreement between the City of Tucson and Tradeco Investments, L.L.C.; and declaring an emergency.

II. PRE-ANNEXATION AND DEVELOPMENT AGREEMENT: WITH VISTA COMPANIES, L.L.C.

1. Report from City Manager JUNE28-04-382 OUTSIDE CITY
2. Resolution 19880 relating to annexations; authorizing and approving the execution of a Pre-Annexation Development Agreement between the City of Tucson and Vista Companies, L.L.C.; and declaring an emergency.

Kathleen S. Detrick said the next items to be considered separately were Items HH and II, which were pulled at the request of Council Member Leal.

Council Member Leal said he was told that the developer was asked to include an agreement that would follow the deeds on the homes that he built. This agreement would deprive the homeowners of being able to say yes or no to a future annexation request on the part of the City in that area. The agreement would lock the future homeowners in with a yes on annexation and not have a choice. He asked if that was valid information.

Albert Elias, Director of Urban Planning and Design, said that a pre-annexation agreement was recognized by State law. The statute explicitly allowed these kinds of agreements on behalf of municipalities. They typically have to run with the land as a covenant because otherwise they become unenforceable after the property is sold. Just like a set of covenants and conditions that run with respect to a homeowner's association or other covenants that run with the land, a pre-annexation agreement, once executed and recorded by the City, runs with the land. It binds the landowner that executes the pre-annexation agreement as well as any subsequent landowners. It commits them to sign an annexation petition if such a petition were to be presented to them by the Mayor and Council in the future. Essentially, what a pre-annexation agreement does, depending on the terms of the agreement, is commit a future landowner or owner of a particular parcel as a committed yes vote for annexation in the future. Sometimes this was for a particular period of time and sometimes it was indefinite, but they did not require annexation by the City. The City under a pre-annexation agreement always had discretion to seek annexation if it wanted to, but the City was not bound to do so.

Council Member Leal asked if the only one left with prerogative in the future was the Mayor and Council, and the person who bought the house had no choice.

Mr. Elias said even if a subsequent purchaser wanted not to be part of a municipality that had a pre-annexation agreement, those annexation agreements were considered by courts to be legally binding.

Council Member Leal said that was what he was trying to get to. If that was the case, he was questioning the ethics of it.

James Keene, City Manager, added that in many ways it was not any different than an actual annexation of the developer and their property into the City that was undeveloped and then was subsequently developed and then sold to somebody, or state land, for example, that was annexed. He pointed out that this factor was just another CC&R (Conditions, Covenants and Restrictions) when somebody was making a purchase.

Council Member Leal said no.

Mr. Keene said he might say that this was stated as a notice when somebody was purchasing a piece of property that this fact exists.

Council Member Leal said he thought that was different than other CC&Rs. A CC&R might say that when you paint your house it must either be salmon, apricot or gold. That was a lesser kind of choice than a person being able to say whether or not they want to be a part of a city or exercising a more fundamental kind of right. Three or four years ago there was a case where a developer wanted four neighborhoods to sign agreements that would go on their properties that would prevent them from ever opposing anything the developer might want to do on their property. If their children inherited the land, it would preempt them from exercising any free will. It would prevent someone who bought the house from exercising any free choice. Two years later the City had a developer who wanted to down zone some industrial property and he sold it to a person who wanted to do residential. The developer who kept the industrial portion put deed restrictions on the residential part so people who bought those houses would never be able to oppose anything the guy who still had his industrial property wanted to do next to those houses.

Council Member Leal said he thought it was unethical for the City and developers to deal away peoples' civil rights. If the City wanted people to want to come into the City of Tucson and have a relationship, it was not in the City's interest to be heavy-handed and manipulative. Anyone who saw the City acting this way with their ability to choose should be skittish of having a relationship with the City. He knew the City was interested in annexations, but doing things like this was going too far. He said he would be voting against this and asked the Council to have a discussion about it during a study session in the future.

Council Member Dunbar asked if a person, when buying the property, would be told that this pre-annexation agreement existed.

Mr. Keene replied that was correct.

Council Member Dunbar said the potential purchaser would then have a choice at that point.

Mr. Keene pointed out that there had been a series of policy issues that the Council had discussed on other matters that extended far beyond the color of the house. The Council sought to include in deed restrictions or other notices to prospective purchasers so they had a clear choice.

Council Member Leal noted that this was the same way people were supposed to have been told about where oil pipelines and gas pipelines were when they went to closings. Somehow that did not happen or at the last minute it did not matter.

Council Member Ibarra agreed with Council Member Leal, but he was going to move ahead because the party involved had already agreed to this and it was his choice. He said the fact of the matter was the Council told Mr. Keene in the study session discussion on annexation, that they wanted to pull this particular policy out and discuss it in the open, so they were going to have that discussion. Since this agreement already had been made and agreed to on both sides he did not think it was right to pull it out.

It was moved by Council Member Ibarra, duly seconded, that Consent Agenda Items HH and II be passed and adopted and the proper action taken.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, and Dunbar;  
Vice Mayor Ronstadt and Mayor Walkup.

Nay: Council Member Leal

Absent/Excused: Council Member Scott

Council Member West wanted to explain her vote. She felt this was no different from any bare land annexation that the Council had done in the past. In fact, she could cite several in her ward. The fact that there was full disclosure meant that the property owner had the responsibility to read the fine print before he or she signed the sale documents. Furthermore, she believed the water service that was provided should be within the City limits. Enough of those have been outside the City limits. It was time that the Council demand that if landowners want Tucson Water service, then they should agree to annexation.

Consent Agenda Items HH and II were declared passed and adopted by a roll call vote of 5 to 1.

For the purpose of the emergency clause, and that purpose only, Mayor Walkup called for the roll call vote on Items HH and II.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar, and Leal;  
Vice Mayor Ronstadt and Mayor Walkup.

Nay: None

Absent/Excused: Council Member Scott

Consent agenda Items HH and II were declared passed and adopted by a roll call vote of 6 to 0, with the emergency clause.

RECESS: 6:59 p.m.

RECONVENE: 7:09 p.m.

Mayor Walkup called the meeting to order and upon roll call, those present and absent were:

Present:

José J. Ibarra	Council Member Ward 1
Carol W. West	Council Member Ward 2
Kathleen Dunbar	Council Member Ward 3
Steve Leal	Council Member Ward 5
Fred Ronstadt	Vice Mayor, Council Member Ward 6
Robert E. Walkup	Mayor

Absent/Excused: Shirley C. Scott, Council Member Ward 4

## **7. CALL TO THE AUDIENCE**

Mayor Walkup announced that this was the time any member of the public was allowed to address the Mayor and Council on any issue except for items scheduled for a public hearing. He also announced that speakers would be limited to three-minute presentations. There were a large number of speaker cards and the call to the audience would last for 30 minutes. First he would call on speakers who were there last week and were not called on.

- a. Bill Katzel updated the Mayor and Council regarding the Plantinum Bicycle Challenge.
- b. Ramon Olivas had concerns regarding the process for applying for and receiving TEA-21 Public Art Grant Funds, and noted the scope of the work requested by the neighborhood was significantly changed.

- c. Levi Jackson addressed the Mayor and Council in his new role as the Metropolitan Tucson Convention and Visitors Bureau (MTCVB) liaison and urged the Mayor and Council to pursue an aggressive Annexation policy.
- d. Michael Toney commented on various issues discussed at the regular meeting.
- e. Ellen Welch had concerns regarding noise and expansion issues surrounding Davis Monthan Air Force Base.
- f. Rich Anemone thanked the Mayor and Council for making tough decisions that would result in increased staffing levels at Tucson Police Department.
- g. Kurt Bradley had concerns regarding noise and expansion issues surrounding Davis Monthan Air Force Base.
- h. Daniel Patterson had concerns regarding noise and expansion issues surrounding Davis Monthan Air Force Base.
- i. Karen Enos had concerns regarding noise and expansion issues surrounding Davis Monthan Air Force Base.
- j. Brian Delfs of the Tucson Fire Fighters Association, thanked the Mayor and Council for making tough budget decisions.
- k. Rhonda Benhase was opposed to the proposed increase to the adult Parks and Recreation fees.

**8. PUBLIC HEARING: AMENDING DEVELOPMENT SERVICES FEES FOR CODES AND PERMITS**

Mayor Walkup announced City Manager's communication number 379, dated June 28, 2004, would be received into and made a part of the record. He also announced this was the time and place legally advertised for a public hearing on an increase in Development Services Department fees for Plans Review, Code Review and Permits. This increase would go into effect July 1, 2004.

Mayor Walkup said that the public hearing was scheduled to last for no more than one hour, and speakers would be limited to five-minute presentation. He asked speakers to state their name, address, whether or not they lived in the City, who they were representing and whether or not they were being paid.

Mayor Walkup asked if there was anyone wishing to address the Council on this issue. There was no one. He asked the Council's pleasure.

It was moved by Council Member Ibarra, duly seconded, and carried by a voice vote of 6 to 0, (Council Member Scott absent/excused), to close the public hearing.

Mayor Walkup asked the City Clerk to read Ordinance 9999 by number and title only.

Ordinance 9999 relating to fees for building and development; amending fees charged by the Development Services Department for development and plans review, code reviews and permits; and declaring an emergency.

It was moved by Vice Mayor Ronstadt, duly seconded, to pass and adopt Ordinance 9999.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar, and Leal;  
Vice Mayor Ronstadt and Mayor Walkup

Nay: None

Absent/Excused: Council Member Scott

Ordinance 9999 was declared passed and adopted by a roll call vote of 6 to 0.

**9. PUBLIC HEARING: ZONING (C9-98-37) HEADLEY AND VALENCIA – VALENCIA ROAD, O-3 TO C-1 AND C-2, REQUEST FOR TIME EXTENSION, ORDINANCE ADOPTION**

Mayor Walkup announced City Manager's communication number 353, dated June 28, 2004, would be received into and made a part of the record. He also announced this was the time and place legally advertised for a public hearing with respect to a request for a five-year time extension for property located at the northeast corner of Headley Road and Valencia Road.

Mayor Walkup asked if the applicant or a representative was present and if they had any brief comments before the beginning of the public hearing.

Lyle Richardson, a paid consultant for the McCrae Group of Companies, said they had read the report and they agreed with the stipulations.

Mayor Walkup asked if there was anyone else wishing to address the Council on this issue. There was no one. He asked the Council's pleasure.

It was moved by Council Member Ibarra, duly seconded, and carried by a voice vote of 6 to 0, (Council Member Scott absent/excused), to close the public hearing.

Mayor Walkup asked the City Clerk to read Ordinance 9992, by number and title only.

Ordinance 9992 relating to zoning: amending Ordinance 9514 to extend the period of compliance from June 28, 2004 to June 28, 2009 for the area located at the

northeast corner of Headley Road and Valencia Road in case C9-98-37, Headley & Valencia - Valencia Road, O-3 to C-1 and C-2; and declaring an emergency.

It was moved by Council Member Ibarra, duly seconded, to pass and adopt Ordinance 9992.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar, and Leal;  
Vice Mayor Ronstadt and Mayor Walkup.

Nay: None

Absent/Excused: Council Member Scott

Ordinance 9992 was declared passed and adopted by a roll call vote of 6 to 0.

**10. ZONING: (C9-04-06) EL RANCHO MERLITA – WRIGHTSTOWN ROAD, SR TO RX-2, CITY MANAGER’S REPORT**

Mayor Walkup announced City Manager’s communication number 361, dated June 28, 2004, would be received into and made a part of the record. He also announced this was a request to rezone property located on the south side of Wrightstown Road between Sarnoff Drive and Camino Seco Road. The Zoning Examiner and the City Manager recommended approval subject to certain conditions.

Mayor Walkup asked if the applicant or a representative were present, and if they were aware of and agreeable to the proposed requirements.

Mike Grassinger, The Planning Center, said they were aware of and agreeable to all of the conditions.

It was moved by Council Member West, duly seconded, to approve the request for rezoning as recommended by the Zoning Examiner.

Council Member Ibarra asked Mr. Rankin if a three-fourths vote was required at this stage, or for ordinance adoption.

Mike Rankin, City Attorney, replied that the three-fourths vote would be required for ordinance adoption.

Council Member Ibarra asked Mr. Grassinger about the protests that would require the three-fourths vote for ordinance adoption.

Mr. Grassinger said the protests were from some individuals on the north side, across Wrightstown Road they basically objected to the amount of traffic. They did not attend either of the developer’s meetings and if they had they would have seen that the



traffic situation would actually be improved on Wrightstown by the installation of turn lanes.

Council Member West said the lots were exactly the same size as the ones across the street. They were larger lots, almost an acre in size. She thought there were seventeen homes. There was far greater density to the east of this. She thought this was a great project. She thought this would work out, as there would be lanes added to help the traffic situation. There were no plans to widen Wrightstown Road anytime soon.

Mayor Walkup asked if there was any further discussion. There was none.

The motion to approve the request for rezoning as recommended by the Zoning Examiner was declared passed by a voice vote of 6 to 0, (Council Member Scott absent/excused).

**11. ZONING: (C9-04-05) WRA INVESTMENTS – BILBY ROAD, R-2 TO I-1, CITY MANAGER’S REPORT**

Mayor Walkup announced City Manager’s communication number 360, dated June 28, 2004, would be received into and made a part of the record. He also announced this was a request to rezone property located on the east side of Sears Boulevard between Bilby Road and Ganley Road. The Zoning Examiner and the City Manager recommended approval subject to certain conditions.

Mayor Walkup asked if the applicant or a representative was present, and if they were aware of and agreeable to the proposed requirements.

Mike Marks, MJM Consulting, Inc., representing the property owner, WRA Investments, LLC, said they were aware of all of the conditions and found them all acceptable.

Council Member Leal said the last time he and Mr. Marks spoke, they discussed trying to get the concrete block similar in color to the original building.

Mr. Marks said they agreed that they would design the building so it was compatible with the existing building.

Council Member Leal asked if that would include the patio wall on the north side.

Mr. Marks said that the perimeter wall would be designed consistent with the existing perimeter wall.

It was moved by Council Member Leal, duly seconded, and carried by a voice vote of 6 to 0, (Council Member Scott absent/excused) to approve the request for rezoning as recommended by the Zoning Examiner.

**12. ZONING: (C9-04-04) ELKS CLUB – RIVER ROAD, SR TO R-3 AND O-2, CITY MANAGER’S REPORT**

Mayor Walkup announced City Manager’s communication number 359, dated June 28, 2004 would be received into and made a part of the record. He also announced this was a request to rezone property located on the south side of River Road approximately one mile east of Campbell Avenue. The Zoning Examiner and the City Manager recommended approval subject to certain conditions.

Mayor Walkup asked if the applicant or a representative was present, and if they were aware of and agreeable to the proposed requirements.

Mike Grassinger, The Planning Center, said they were aware of and agreeable to all of the conditions.

Peter Gavin, Zoning Examiner, said the vote for the recommendation required a simple majority vote, and that if it were a vote for ordinance adoption a simple majority vote would also be needed because the protest by Humberto Lopez had been rescinded the prior week.

It was moved by Council Member Dunbar, duly seconded, and carried by a voice vote of 6 to 0 (Council Member Scott absent/excused) to approve the request for rezoning as recommended by the Zoning Examiner.

**13. REAL PROPERTY: A-7 RANCH, ACCEPTANCE OF ANTICIPATED OFFER TO PURCHASE FROM PIMA COUNTY**

Mayor Walkup announced City Manager’s communication number 365, dated June 28, 2004, would be received into and made a part of the record. He asked the City Clerk to read Ordinance 9997, by number and title only.

Ordinance 9997 relating to real property; vacating and declaring real property known as A-7 Ranch to be surplus property, and authorizing the sale thereof to Pima County; and declaring an emergency.

James Keene, City Manager, said this item was back in response to previous direction received from the Council. It was his understanding that the County’s Conservation Committee meeting would take place on June 30, 2004 and presuming that they made a recommendation for purchase, it would go to the Board of Supervisors on July 6, 2004, for their formal action. He would recommend just one change in the City Manager’s recommendation, and that would be that the scheduled bid opening of July 15, 2004, be cancelled pending the outcome of the decision of the Board of Supervisors. If the recommendation was to proceed with the purchase, the City would cancel the bid opening. If they did not, the bid opening would be held as scheduled in case there were any alternative offers.

It was moved by Council Member West, duly seconded, that Ordinance 9997, with the changes suggested by the City Manager, be passed and adopted.

Council Member Dunbar asked if Pima County would be picking up the operational cost of the ranch.

Benny Young, Assistant City Manager, said the letter from the County Administrator, stating he would recommend the sale to the Board of Supervisors, also said that the County would assume full responsibility for the operating and maintenance expenses of the ranch. That did not necessarily mean that the cowboys currently employed by the City would necessarily stay on; but he thought there was a reasonable likelihood that would happen. It was his expectation that the County would lease this to a ranch operator and ultimately this would be the ranch operator's decision.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar and Leal;  
Vice Mayor Ronstadt and Mayor Walkup.

Nay: None

Absent/Excused: Council Member Scott

Ordinance 9997, with the changes suggested by the City Manager, was declared passed and adopted by a roll call vote of 6 to 0.

**14. TUCSON CODE: ADOPTION OF THE ANNUAL COMPENSATION PLAN FOR EMPLOYEES OF THE CITY OF TUCSON FISCAL YEAR 2005**

Mayor Walkup announced City Manager's communication number 375, dated June 28, 2004, would be received into and made a part of the record. He asked the City Clerk to read Ordinance 10003, by number and title only.

Ordinance 10003 relating to compensation plan; Tucson Code Chapter 10, Article II, Section 10-31, adopting salary schedules for fiscal year 2005; implementing Section 10-31; ratifying, reaffirming and reenacting Sections 10-31(7), providing percentages for calculation of compensation from salary schedules for employees in specified assignment positions; Section 10-33, Language Communication Compensation; Section 10-34, Incentive pay for fire prevention inspectors; Section 10-34.1., Assignment and incentive pay for maintaining paramedic certification and working as paramedics; Section 10-35, Fire battalion chief call back shift pay; Section 10-47, Recruiting referral compensation for police officer applicants program; Section 10-53 Pipeline protection program; compensation; Section 10-53.1., Permanent and probationary city civil service employees and elected officials and appointed employees downtown allowance; amending Sections 10-31(1) Compensation Policy, providing for overtime, standby pay, and weekend premium pay for regularly scheduled hours; Section 10-31(5) Applications., deleting

provision for salary movement within ranges; Section 10-32. Administration of Plan, providing for skill based pay component, Section 10-37. Reallocation, providing new subsection 10-37(1) procedures for skill based pay component, renumbering previous provision to 10-37(2); deleting and adding new Section 10-38. Movement within salary ranges, providing for movement in performance and skill based components of compensation plan; adding and amending former Section 10-38. Increases for exceptionally meritorious service as new Section 10-39, providing for increases for performance and skill based components of compensation plan; reenacting and amending Section 10-48, Supplement to military pay; adding a new Section 10-49, providing for holiday and board of inquiry pay for commissioned police officers positions of lieutenant, assignment positions, of captain, and assistant chief; amending section 10-53.2, Maintenance management program, assignment and incentive pay compensation, deleting pilot program component and percentage increase for participation; all as part of implementation of the annual compensation plan for fiscal year 2005; and declaring an emergency.

It was moved by Vice Mayor Ronstadt, duly seconded, that Ordinance 10003 be passed and adopted and the proper action taken.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar, and Leal;  
Vice Mayor Ronstadt and Mayor Walkup.

Nay: None

Absent/Excused: Council Member Scott

Ordinance 10003 was declared passed and adopted by a roll call vote of 6 to 0.

**15. LABOR AGREEMENT: WITH THE AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES COUNCIL 97, AFL/CIO**

Mayor Walkup announced that City Manager's communication number 376, dated June 28, 2004, would be received into and made a part of the record. He also announced that at the request of staff this item would be continued to the meeting of August 2, 2004.

**16. LABOR AGREEMENT: WITH THE TUCSON ASSOCIATION OF CITY EMPLOYEES/COMMUNICATION WORKERS OF AMERICA, AFL/CIO**

Mayor Walkup announced City Manager's communication number 377, dated June 28, 2004, would be received into and made a part of the record. He asked the City Clerk to read Resolution 19882, by number and title only.

Resolution 19882 relating to employee relations; authorizing the City Manager to execute an agreement between the City of Tucson and the Tucson Association of City Employees/Communication Workers of America; and declaring an emergency.

Kathleen S. Detrick, City Clerk, announced a clerical correction on page two of the resolution, under section one, on the second line, changing “of the City of Tucson *and* agreement a and b” to read “of the City of Tucson *an* agreement a and b.”

It was moved by Council Member West, duly seconded, that Resolution 19882, with the clerical correction, be passed and adopted.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar, and Leal;  
Vice Mayor Ronstadt and Mayor Walkup.

Nay: None

Absent/Excused: Council Member Scott

Resolution 19882, with the clerical correction, was declared passed and adopted by a roll call vote of 6 to 0.

**17. TUCSON CODE: AMENDING (CHAPTER 22) RELATING TO LEAVE AND SPECIAL INSURANCE BENEFITS FOR EMPLOYEES OF THE CITY OF TUCSON**

Mayor Walkup announced City Manager’s communication number 378, dated June 28, 2004 would be received into and made a part of the record. He asked the City Clerk to read Ordinances 10004 and 10005, by number and title only.

Ordinance 10004 relating to leave benefit plan; amending the Tucson Code Chapter 22, Article V. Leave Benefits Plan, amending Section 22-90(4)A, Military leave and adding a new Section 22-90(4)B; reenacting Section 22-90(5), supplement to military leave; adding a new Section 22-95, Sick leave incentive program providing for special leave days; and declaring an emergency.

Ordinance 10005 relating to insurance benefits; Tucson Code Chapter 22, Article VI, Other insurance benefits, Section 22-100. Providing for other insurance benefits, amending Section 22-100; adding section 22-101, providing for a death benefit payment to the employee group eligible for representation by Tucson Police Officers Association (TPOA); adding Section 22-102, providing for a death benefit payment to the employee group eligible for representation by the International Association of Firefighters (IAFF), and declaring an emergency.

It was moved by Council Member Dunbar. duly seconded, that Ordinance 10004 be passed and adopted and the proper action taken.

Vice Mayor Ronstadt said he wanted to comment on Ordinance 10004. A few years back the City of Tucson implemented a program where City employees who were called to active military duty had their salaries continued at a differential. As a guard member, they make x amount of money, the City adds the difference so that as a reservist or guard member they would not lose any money while on active duty. This was something the Council felt was very important. They served locally as City employees, but when they were called to duty to serve our country and protect our freedoms, they could go and serve our country without having to worry about their husbands or wives or children back home. He thought it was a very important program. The City of Tucson did it and a lot of companies did it and he wanted to encourage those companies that employed reservists or guardsmen to implement the same program.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar, and Leal;  
Vice Mayor Ronstadt and Mayor Walkup.

Nay: None

Absent/Excused: Council Member Scott

Ordinance 10004 was declared passed and adopted by a roll call vote of 6 to 0.

It was moved by Council Member Dunbar, duly seconded, that Ordinance 10005 be passed and adopted and the proper action taken.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar, and Leal;  
Vice Mayor Ronstadt and Mayor Walkup.

Nay: None

Absent/Excused: Council Member Scott

Ordinance 10005 was declared passed and adopted by a roll call vote of 6 to 0.

**18. PARKS AND RECREATION: APPOINTMENT OF THE PARKS AND RECREATION DIRECTOR FOR THE CITY OF TUCSON**

Mayor Walkup announced City Manager's communication number 386, dated June 28, 2004, would be received into and made a part of the record. He asked the City Clerk to read Ordinance 10006, by number and title only.

Ordinance 10006 relating to the Department of Parks and Recreation; approving the appointment of the Director of Parks and Recreation and fixing compensation; and declaring an emergency.

James Keene, City Manager, distributed the resume of Fred H. Grey, Jr. to the Mayor and Council and said that he and Liz Miller, Assistant City Manager, were available to answer questions.

It was moved by Vice Mayor Ronstadt, duly seconded, that Ordinance 10006 be passed and adopted appointing Fred H. Grey, Jr. as Parks and Recreation Director.

Vice Mayor Ronstadt said that during the hiring process he made it very clear to the City Manager his desire that Tucson move forward and seriously look at consolidation at a metropolitan level. If they got to the point where there was somebody available to be appointed or lead the City's Parks Department that person was to be clearly told that the majority of the Council wanted to move forward with consolidation of several areas, including Parks. One of the things that attracted him to this candidate was that he was present during the consolidation in Charlotte and Mecklinberg County. Mr. Drake recently came to Tucson and talked about that model for consolidation and that was probably the best model for the City of Tucson. He said on those grounds alone, somebody with that type of experience in functional consolidation and successful consolidation, was why he was throwing his weight behind this individual.

Mayor Walkup said they have had a series of exceptional Parks and Recreation Directors over the past many years, and in reading this resume he felt that the City had found one of the best ones in the country. He was very pleased with the recommendation.

Council Member Dunbar wanted to go back to Vice Mayor Ronstadt's comments that he was involved in the consolidation in Charlotte and Mecklinberg County. She asked for more information about that process and Mr. Grey's part in it.

Vice Mayor Ronstadt said in his work experience, from 1988 to present, he was Deputy Director of Parks and Recreation of Mecklinberg County.

Mr. Keene said that Charlotte/Mecklinberg County had been cited as a place where there had been a lot of integration between the two jurisdictions. For example, their city planning department took over and now provided planning services for both the city and the county. The parks and recreation department that was in the county took over the city parks and recreation department. Mr. Grey was there during that transition and the integration of the two parks departments together and the consolidation into the one department, which was now run by the county but for both the city and the county.

Council Member Dunbar asked if he worked for the city or for the county.

Mr. Keene replied that he worked for the county.

Mayor Walkup asked if there was any further discussion. Hearing none, he called for a roll call vote.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar, and Leal;  
Vice Mayor Ronstadt and Mayor Walkup.

Nay: None

Absent/Excused: Council Member Scott

Ordinance 10006 was declared passed and adopted by a roll call vote of 6 to 0, naming Fred H. Grey, Jr. as the new Parks and Recreation Director.

#### **19. APPOINTMENTS TO BOARDS, COMMISSIONS AND COMMITTEES**

Mayor Walkup announced City Manager's communication number 348, dated June 28, 2004, would be received into and made a part of the record. Mayor Walkup asked if there were any personal appointments at this time.

Council Member Leal announced his personal appointments of Karen Faulkenstrom to the Gay, Lesbian, Bisexual, and Transgender Commission and Corrina Baca to the Citizens Water Advisory Committee.



**20. ADJOURNMENT 8:10 p.m.**

Mayor Walkup announced that the Council would stand adjourned until its next regularly scheduled meeting to be held Monday, August 2, 2004 at 5:30 p.m., in the Mayor and Council Chambers in City Hall, 255 W. Alameda, Tucson, Arizona.

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MAYOR

ATTEST:

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CITY CLERK

**CERTIFICATE OF AUTHENTICITY**

I, the undersigned, have read the foregoing transcript of the meeting of the Mayor and Council of the City of Tucson, Arizona, held on the 28<sup>th</sup> day of June 2004, and do hereby certify that it is an accurate transcription.

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DEPUTY CITY CLERK

KSD:lp/rp